

Part 10

Preferences

63G-6a-1001 Title.

This part is known as "Preferences."

Enacted by Chapter 347, 2012 General Session

63G-6a-1002 Reciprocal preference for providers of state products.

- (1)
- (a) An issuing procurement unit shall, for all procurements, give a reciprocal preference to those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in Utah over those bidders offering procurement items that are produced, manufactured, mined, grown, or performed in any state that gives or requires a preference to procurement items that are produced, manufactured, mined, grown, or performed in that state.
 - (b) The amount of reciprocal preference shall be equal to the amount of the preference applied by the other state for that particular procurement item.
 - (c) In order to receive a reciprocal preference under this section, the bidder shall certify on the bid that the procurement items offered are produced, manufactured, mined, grown, or performed in Utah.
 - (d) The reciprocal preference is waived if the certification described in Subsection (1)(c) does not appear on the bid.
- (2)
- (a) If the bidder submitting the lowest responsive and responsible bid offers procurement items that are produced, manufactured, mined, grown, or performed in a state that gives or requires a preference, and if another bidder has submitted a responsive and responsible bid offering procurement items that are produced, manufactured, mined, grown, or performed in Utah, and with the benefit of the reciprocal preference, the bid of the other bidder is equal to or less than the original lowest bid, the issuing procurement unit shall:
 - (i) give notice to the bidder offering procurement items that are produced, manufactured, mined, grown, or performed in Utah that the bidder qualifies as a preferred bidder; and
 - (ii) make the purchase from the preferred bidder if the bidder agrees, in writing, to meet the low bid within 72 hours after notification that the bidder is a preferred bidder.
 - (b) The issuing procurement unit shall include the exact price submitted by the lowest bidder in the notice the issuing procurement unit submits to the preferred bidder.
 - (c) The issuing procurement unit may not enter into a contract with any other bidder for the purchase until 72 hours have elapsed after notification to the preferred bidder.
- (3)
- (a) If there is more than one preferred bidder, the issuing procurement unit shall award the contract to the willing preferred bidder who was the lowest preferred bidder originally.
 - (b) If there were two or more equally low preferred bidders, the issuing procurement unit shall comply with the rules of the applicable rulemaking authority to determine which bidder should be awarded the contract.
- (4) The provisions of this section do not apply if application of this section might jeopardize the receipt of federal funds.

Amended by Chapter 445, 2013 General Session

63G-6a-1003 Preference for resident contractors.

- (1) As used in this section, "resident contractor" means a person, partnership, corporation, or other business entity that:
 - (a) either has its principal place of business in Utah or that employs workers who are residents of this state when available; and
 - (b) was transacting business on the date when bids for the public contract were first solicited.
- (2)
 - (a) When awarding contracts for construction, an issuing procurement unit shall grant a resident contractor a reciprocal preference over a nonresident contractor from any state that gives or requires a preference to contractors from that state.
 - (b) The amount of the reciprocal preference shall be equal to the amount of the preference applied by the state of the nonresident contractor.
- (3)
 - (a) In order to receive the reciprocal preference under this section, the bidder shall certify on the bid that the bidder qualifies as a resident contractor.
 - (b) The reciprocal preference is waived if the certification described in Subsection (2)(a) does not appear on the bid.
- (4)
 - (a) If the contractor submitting the lowest responsive and responsible bid is not a resident contractor whose principal place of business is in a state that gives or requires a preference to contractors from that state, and if a resident contractor has also submitted a responsive and responsible bid, and, with the benefit of the reciprocal preference, the resident contractor's bid is equal to or less than the original lowest bid, the issuing procurement unit shall:
 - (i) give notice to the resident contractor that the resident contractor qualifies as a preferred resident contractor; and
 - (ii) issue the contract to the resident contractor if the resident contractor agrees, in writing, to meet the low bid within 72 hours after notification that the resident contractor is a preferred resident contractor.
 - (b) The issuing procurement unit shall include the exact price submitted by the lowest bidder in the notice that the issuing procurement unit submits to the preferred resident contractor.
 - (c) The issuing procurement unit may not enter into a contract with any other bidder for the construction until 72 hours have elapsed after notification to the preferred resident contractor.
- (5)
 - (a) If there is more than one preferred resident contractor, the issuing procurement unit shall award the contract to the willing preferred resident contractor who was the lowest preferred resident contractor originally.
 - (b) If there were two or more equally low preferred resident contractors, the issuing procurement unit shall comply with the rules of the applicable rulemaking authority to determine which bidder should be awarded the contract.
- (6) The provisions of this section do not apply if application of this section might jeopardize the receipt of federal funds.

Amended by Chapter 445, 2013 General Session

63G-6a-1004 Exception for federally funded contracts.

This part does not apply to the extent it conflicts with federal requirements relating to a procurement that involves the expenditure of federal assistance, federal contract funds, or federal financial participation funds.

Enacted by Chapter 347, 2012 General Session